REMARKS/ARGUMENTS

Applicants thank the Examiner for his careful review of this application. Claims 20-39 have been rejected. Applicants respectfully request reconsideration of the application in view of the following remarks submitted in support thereof.

Notice of Appeal

A Notice of Appeal is being filed along with this response, as the Applicants believe that the claims are in condition for appeal.

Obviousness Rejections under 35 U.S.C. §103(a)

Claims 20-30 and 36-39 stand rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,298,422 to Spilo et al. in view of U.S. Patent No. 6,549,934 to Peterson et al. and U.S. Patent No. 6,411,986 to Susai et al. In addition, claims 31-35 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Spilo et al. in view of Peterson et al. As will be fully explained below, the combination of Spilo et al. in view of Peterson et al. does not raise a *prima facie* case of obviousness against independent claims 20, 31, and 36.

Independent claims 20 and 36 define a method and a computer program product of improving access to one or more resources on a client server. Specifically, a plurality of applications are served from the client server to a stateless desktop unit (DTU). Thereafter, a determination is made as to when an application served from the client server to the stateless DTU should become inactive. The application is then filtered from the plurality of applications served from the client server via a filter.

Independent claim 31 also defines a client server serving a plurality of applications to a DTU. In particular, independent claim 31 defines a filter that manages consumption of a resource and transmits a first signal to at least one member of a plurality of applications indicating that the member should stop consuming the resource.

In response to the Amendment mailed on February 23, 2004, the Examiner notes that Peterson et al. disclose the filter that filters applications served from the client server in column 5, lines 16-31 (see Final Office Action mailed May 19, 2004 at page 10). Applicants respectfully traverse the Examiner's characterization of Peterson et al. relative to independent claims 20, 36, and 31 because the portion of the reference relied upon by the Examiner (col. 5, lines 16-31) does not teach or suggest the filter that filters applications, as defined in independent claims 20, 36, and 31. In particular, column 5, lines 20-23 discloses:

> the server filter object 78 may block any IRPs (e.g., *via* a server application 86, file system 88, I/O manager 90 and optional driver stack 92) from reaching the device driver 82 other than those originating from the client filter driver 68.

Thus, Peterson et al. do not teach or suggest the server filter object blocking a server application, a file system, etc. Instead Peterson et al. disclose the server filter object blocking IRPs *via* a server application, a file system, an I/O manager, etc. In other words, Peterson et al. teach or suggest the use of a server application, a file system, etc. to implement the server filter object. As discussed previously in the Amendment mailed February 23, 2004, server filter object merely blocks (*i.e.*, filters) I/O Request Packets (IRPs). In contrast, independent claims 20, 36, and 31 define the filtration of applications. As I/O Request Packets are not applications, Peterson et al. cannot reasonably be considered to teach or suggest the filter that filters applications, as defined in independent claims 20, 36, and 31.

Additionally, in support of the 35 U.S.C. § 103(a) rejections, the Examiner notes that Spilo et al. teach or suggest a plurality of applications being served from the client server to a

stateless desktop unit (DTU). Applicants respectfully traverse the Examiner's characterization of Spilo et al. relative to independent claims 20, 36, and 31 because the portions of the reference relied upon by the Examiner (col. 3, lines 35-47 and col. 4, lines 1-13) do not teach or suggest a plurality of applications being served from the client server to the DTU, as defined by independent claims 20, 36, and 31. Specifically, Spilo et al. disclose "a method for improving the efficiency of multitasking applications in *a* computer system" (col. 8, lines 34-35 and col. 1, lines 6-8). Thus, Spilo et al. merely disclose on the execution of applications on a single computer system. No applications are served from one computer system to another computer system. In contrast, independent claims 20, 36, and 31 define the client server serving applications to the stateless desktop unit. In fact, neither the term "client" nor the term "server" is disclosed anywhere in Spilo et al. As Spilo et al. only disclose improving multitasking applications in a single computer system, Spilo et al. cannot reasonably be considered to teach or suggest applications being served from the client server to a stateless desktop unit (DTU), as defined in independent claims 20, 36, and 31.

The Examiner also notes that Spilo et al. teach or suggest the method operation of determining when an application served from the client server to the stateless DTU should become inactive, as defined in independent claims 20 and 36. Applicants respectfully traverse the Examiner's characterization of Spilo et al. relative to independent claims 20 and 36 because the portion of the reference relied upon by the Examiner (col. 4, lines 38-67) does not teach or suggest the method operation of determining when the application served from the client server to the stateless DTU should become inactive, as defined in independent claims 20 and 36. Specifically, at column 4, lines 38-39, Spilo et al. do disclose minimizing (*i.e.*, suspending) the application. However, Spilo et al. teach "a method enabling the *user* to suspend a running, inactive application" because "it is desirable to leave the decision to

suspend the application to the *user*" (col. 3, lines 24-27). As a result, the invention disclosed in Spilo et al. does not make a determination as to when to suspend a running application. Instead, the user manually suspends the application. In contrast, independent claims 20 and 36 define a method operation of determining when the application served from the client server to the stateless DTU should become inactive. As Spilo et al. merely teach the user manually suspending the application, Spilo et al. cannot reasonably be considered to teach or suggest the method operation of determining when the application served from the client server to the stateless DTU should become inactive, as defined in independent claims 20 and 36.

To establish a *prima facie* case of obviousness, the prior art references must teach or suggest all the claim limitations (see M.P.E.P. §2143). Here, in view of the incorrect characterization of Spilo et al. and Peterson et al., the references as combined do not teach all the features of the claimed invention.

Additionally, to establish a prima facie case of obviousness based on a combination of references, there must be some suggestion or motivation, either in the references or in the knowledge generally available to one having ordinary skill in the art, to combine the references in the manner proposed. As will be explained below, the Examiner has not established a prima facie case of obviousness against the claimed subject matter because one having ordinary skill in the art would not have combined Spilo et al. and Peterson et al. in the manner proposed by the Examiner.

The teachings of Spilo et al. focus on reducing the memory requirements for an application program executing in a multi-tasking environment. In contrast, the teachings of Peterson et al. relate to providing remote access and control of devices such as disks, tape drives, and modems across a network. The problems associated with reducing memory

requirements in a multi-tasking environment and providing remote access and control of devices relate to entirely different technologies and applications. As the teachings of Spilo et al. have nothing to do with the problems addressed by Peterson et al., Applicants submit that there would not have been any motivation for one having the ordinary skill in the art to combine Spilo et al. and Peterson et al. in the manner proposed by the Examiner.

Furthermore, if the proposed modification would render the prior art invention being modified unsatisfactory for its intended purpose, then there is no suggestion or motivation to make the proposed modification (See M.P.E.P. §2143). In this case, Spilo et al. teach the interception of a program's entry points "in order to inhibit the application from executing for the period of time that it is to be suspended" (col. 4, lines 50-52). However, "[m]essages that are critical or private to the application, are preferably passed through to the window procedure if necessary to keep the application functioning properly" (col. 4, lines 64-67). As such, Spilo et al. disclose a filter like operation that intercepts window messages but allows critical messages necessary for the functioning of the application to pass through.

In contrast, the filtering criteria of the server filter object disclosed in Peterson et al. is not based on the necessity for the proper functioning of an application. Instead, the server filter object filters I/O Request Packets (IRPs) by "properly handl[ing] duplicate requests by ignoring stale retries, (i.e., a retry number lower than previously seen), switching paths for replying to active requests, and re-sending replies for previously completed requests" (col. 6, lines 47-51).

If Spilo et al. is modified in accordance with the teachings of Peterson et al., then Spilo et al. would handle or intercept message with stale retries, re-sending replies for completed messages, etc. However, Spilo et al. would then block messages that are critical or private to the functioning of the application because the filtering criteria taught by Peterson

et al. is not based on the functioning of an application. Furthermore, the application of the filtering criteria of Peterson et al. to Spilo et al. simply does not make sense as the filter of Peterson et al. relates to I/O Request Packets while the filter like operation of Spilo et al. relates to messages required for the execution of an application. Therefore, the proposed modification of Spilo et al. in view of the server filter object of Peterson et al. renders Spilo et al. inoperable for its intended purpose of allowing critical messages for the proper functioning of an application to pass through because the filtering criteria disclosed in Peterson et al. and Spilo et al. are completely different, and very much incompatible. Since the combination would render Spilo et al. unsatisfactory for its intended purpose of blocking critical messages related to the functioning of an application, then there is no suggestion or motivation to make the proposed combination or modification.

Accordingly, for the above-stated reasons, Applicants submit that independent claims 20 and 36 are patentable under 35 U.S.C. §103(a) over Spilo et al. in view of Peterson et al. and Susai et al. Claims 21-30 and 37-39, each of which depends directly or indirectly from independent claims 20 and 36, are likewise patentable under 35 U.S.C §103(a) over Spilo et al. in view of Peterson et al. and Susai et al. for at least the same reasons set forth for independent claims 20 and 36. Additionally, Applications submit that independent claim 31 is patentable under 35 U.S.C. §103(a) over Spilo et al. in view of Peterson et al. Claims 32-35, each of which depends directly or indirectly from independent claim 31, are likewise patentable under 35 U.S.C. §103(a) over Spilo et al. in view of Peterson et al. for at least the same reasons set forth for independent claim 31. As a result, Applicants respectfully request the Examiner to withdraw the 35 U.S.C. §103(a) rejections for claims 20-39.

Conclusion

In view of the foregoing, the Applicants respectfully submit that all the pending claims 20-39 are in condition for allowance. Accordingly, a Notice of Allowance is respectfully requested. If the Examiner has any questions concerning the present request, the Examiner is requested to contact the undersigned at (408) 749-6900 ext. 6924. If any additional fees are due in connection with filing this request, the Commissioner is also authorized to charge Deposit Account No. 50-0805 (Order No. SUNMP578). A duplicate copy of the transmittal is enclosed for this purpose.

Respectfully submitted,
MARTINE & PENILLA, L.L.P.

Michael K. Hsu, Esq.
Reg. No. 46,782

Martine & Penilla, LLP
710 Lakeway Drive, Suite 170
Sunnyvale, California 94085
Telephone: (408) 749-6900
Customer Number 32,291